

32B-4-208 Nuisances.

- (1) As used in this section, "nuisance" means:
 - (a) a room, house, building, structure, place, aircraft, vehicle, vessel, or other conveyance where an alcoholic product is possessed, purchased, used, kept, stored, sold, offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped, carried, transported, or adulterated in violation of this title; or
 - (b) an alcoholic product, container, equipment, or other property kept or used in maintaining an item or property described in Subsection (1)(a).
- (2) A person who maintains or assists in maintaining a nuisance is guilty of a class B misdemeanor.
- (3) If a person has knowledge that, or has reason to believe that the person's room, house, building, structure, place, aircraft, vehicle, vessel, or other conveyance is occupied or used as a nuisance, or allows it to be occupied or used as a nuisance, the nuisance property is subject to a lien for and may be sold to pay the fines and costs assessed against the person guilty of the common nuisance. This lien may be enforced by action in a court having jurisdiction.
- (4)
 - (a) The department shall bring an action to abate a nuisance in the name of the department in a court having jurisdiction.
 - (b) An action brought under this Subsection (4) is an action in equity.
 - (c) The department may not be required to post a bond to initiate an action under this Subsection (4).
 - (d) A court may issue:
 - (i) if it appears that a nuisance exists, a temporary writ of injunction restraining the defendant from conducting or permitting the continuance of the nuisance until the conclusion of the trial; and
 - (ii) an order restraining the defendant and any other person from removing or interfering with an alcoholic product, container, equipment, or other property kept or used in violation of this title or commission rules.
 - (e) In an action to abate or enjoin a nuisance, the court need not find that the property involved is being unlawfully used at the time of the hearing.
 - (f) On finding that a material allegation of a petition or complaint is true, the court shall order that an alcoholic product may not be possessed, purchased, used, kept, stored, sold, offered for sale, furnished, given, received, warehoused, manufactured, distributed, shipped, carried, transported, or adulterated, in any portion of the room, house, building, structure, place, aircraft, vehicle, vessel, or other conveyance.
 - (g) Upon judgment of a court ordering abatement of the nuisance, the court may order that the premises or conveyance in question may not be occupied or used for any purpose for one year, except under Subsection (4)(h).
 - (h) A court may permit premises or conveyance described in Subsection (4)(g) to be occupied or used:
 - (i) if its owner, lessee, tenant, or occupant gives bond in an appropriate amount with sufficient surety, approved by the court, payable to the state;
 - (ii) on the condition that an alcoholic product will not be present in or on the premises or the conveyance; and
 - (iii) on the condition that payment of the fines, costs, and damages assessed for violation of this title or commission rules will be made.
- (5) If a tenant of the premises uses the premises or any part of the premises in maintaining a nuisance, or knowingly permits use by another, the lease is void and the right to possession

reverts to the owner or lessor who is entitled to the remedy provided by law for forcible detention of the premises.

- (6) A person is guilty of assisting in maintaining a nuisance as provided in Section 76-10-804, if that person:
- (a) knowingly permits a building or premises owned or leased by the person, or under the person's control, or any part of a building or premises, to be used in maintaining a nuisance; or
 - (b) after being notified in writing by a prosecutor or other citizen of the unlawful use, fails to take all proper measures to:
 - (i) abate the nuisance; or
 - (ii) remove the one or more persons from the premises.

Amended by Chapter 307, 2011 General Session

Amended by Chapter 334, 2011 General Session